

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

APRIL NAIL, JORDIN BALLARD,)
RICHARD BOYETT, and,)
MARK HOPPER,)

Plaintiffs,)

vs.)

CIVIL ACTION NO. 17-cv-00195-KD-B

ROBERT SHIPP,)
REGINA SHIPP, and,)
SPORTSMAN FISH HOUSE, LLC)
d/b/a SHIPP’S HARBOUR GRILL)

Defendants.)

NOTICE OF COLLECTIVE ACTION

TO: All Current and Former Servers at Shipp’s Harbour Grill

RE: Federal Lawsuit to Recover Unpaid Wages and Your Right to Join

1. INTRODUCTION. The purpose of this Notice is: (1) to inform you of the existence of a lawsuit that you are entitled to join; (2) to advise you of how your rights may be affected by this lawsuit; and, (3) to instruct you on the procedure for joining this lawsuit, should you choose to do so.

2. DESCRIPTION OF THE LAWSUIT. Individuals employed by Sportsman Shipp’s Harbour Grill (hereinafter “Shipp’s”) have sued on behalf of themselves and other similarly situated employees to recover wages that were unpaid in violation of the Fair Labor Standards Act (“FLSA”), plus liquidated damages. They allege that Shipp’s violated the minimum wage and overtime provisions of the FLSA by failing to comply with the tip credit provision of the FLSA, improperly requiring servers to perform work off the clock, and failing to pay minimum wages during weeks where servers were required to incur certain business-related expenses (e.g., purchasing logo t-shirts and fishing shirts). Shipp’s denies any wrongdoing or liability, contends that it has complied with the FLSA and is defending all claims that have been asserted.

3. COMPOSITION OF THE CLASS. Plaintiffs have filed this action on behalf of all current and former servers who worked for Shipp’s at any time since June 7, 2014.

4. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT. If you were employed as a server at Shipp’s at any time since June 7, 2014, then you may join this

lawsuit (that is, “opt in”). To join this lawsuit, you must mail the “Consent to Become Party Plaintiff” form attached to this document to Plaintiffs’ counsel by December 4, 2017. Plaintiffs’ counsel’s address is:

Charles P. Yezbak, III
Yezbak Law Offices
2002 Richard Jones Road, Suite B-200
Nashville, TN 37215
Phone: (615) 250-2000
Fax: (615) 250-2020
yezbak@yezbaklaw.com
info@serverlawsuit.com

If you fail to return the “Consent To Become Party Plaintiff” form to Plaintiffs’ counsel by December 4, 2017, you will not be included in this lawsuit.

If you join you will receive a letter from class counsel within fourteen (14) days of joining, and if you do not receive this letter you should contact the attorneys at the address below to ensure that they received your consent form.

5. EFFECT OF JOINING THIS LAWSUIT. If you choose to join in the suit you will be bound by any judgment, whether it is favorable or unfavorable, or by any approved settlement. If the Plaintiffs win, or the Parties enter into a settlement agreement, you may be eligible for a damages award; if the Plaintiffs lose, no damages will be awarded.

By joining this lawsuit, you designate the Named Plaintiffs as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs’ counsel concerning attorneys’ fees and costs, and all other matters pertaining to this lawsuit. By joining the lawsuit, Plaintiffs’ counsel will become your attorneys, and you will be entitled to communicate with, provide input, and receive advice directly from them.

The attorneys for the class are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys’ fee. If there is a recovery, the attorneys for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class, or may be paid a separate amount by Defendants.

6. EFFECT OF NOT JOINING THE LAWSUIT. If you choose not to join this lawsuit, you will not be bound by any judgment, whether it is favorable or unfavorable, or by any approved settlement. And, if you choose not to join this lawsuit, you will not be entitled to any money obtained by the Plaintiffs through a judgment or settlement. If you choose not to join in this lawsuit, you are free to file a lawsuit of your own. However, if you do not join in this lawsuit or file a lawsuit of your own, the time limit for action on any unpaid wages or overtime claims you may have will continue to run and may cause your claim to be barred by the statute of limitations.

7. NO RETALIATION PERMITTED. Federal law prohibits Defendants from retaliating against you in any way because you have exercised your right to join this lawsuit. If you believe you have been retaliated against or threatened or intimidated in any way as a result of your receipt of this notice or election to participate in this lawsuit, you may contact class counsel immediately.

8. CLASS COUNSEL. If you choose to join this suit, Plaintiffs through their attorneys will represent your interest. Plaintiffs' attorneys will be your attorneys for purposes of this lawsuit. Plaintiffs' attorneys and attorneys for the class are:

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Daniel Arciniegas
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For further information about participating in this lawsuit contact class counsel at 615-250-2000.